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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,068	01/28/2002	Jonathan Bernard Shaw	1.S255.1	3982

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,068

Applicant(s)

SHAW ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 1-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1-5 are objected to because of the following informalities:

In each of the claims, line 1, the claims are labeled as "An ordering **process**", however, the body of the claims comprise apparatus-type limitations, not process steps.

In claims 1-2: the claims should be written in **one-sentence format** with a single period "." at the end of the claim.

Claim 4, last line, the terminology, "said order form, and" is confusing/incorrect language and the claim should end in a period, ".".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, the language, "product", lacks antecedent basis. In claim 1, line 8, the terminology, "the said product code" lacks antecedent basis. In claim 1, line 9, "the information" lacks antecedent basis. In claim 1, line 12, the terminology, "said code linking said Internet site and said order form" lacks antecedent basis. In claim 2, line 4, "the product" lacks antecedent basis. In claim 2, line 4, "this CODE" lacks antecedent basis. The terminology, "all players who are entitled to profit sharing" is

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indefinite in that one cannot determine who the players are. In claim 2, line 9, the terminology, "the said product code" lacks antecedent basis. In claim 2, line 10, "the information" lacks antecedent basis. In claim 2, line 13, the terminology, "said code linking said Internet site and said order form" lacks antecedent basis. In claim 3, line 4, "product" lacks antecedent basis. In claim 3, line 5, "the retail establishment" lacks antecedent basis. In claim 3, line 7, "the said product code" lacks antecedent basis. In claim 3, line 8, "the information" lacks antecedent basis. In claim 3, line 11, "said code linking said internet site and said order form" lacks antecedent basis. In claim 4, line 4, "product" lacks antecedent basis. In claim 4, line 5, "the retail establishment" lacks antecedent basis. In claim 4, line 7, "the clearing website" lacks antecedent basis. In claim 4, line 8, "the said product code" lacks antecedent basis. In claim 4, line 9, "the information" lacks antecedent basis. In claim 4, line 12, "said code linking said Internet site and said order form" lacks antecedent basis. In claim 5, line 4, "product" lacks antecedent basis. In claim 4, line 5, "the said product" lacks antecedent basis. In claim 4, line 6, "the information" lacks antecedent basis. In claim 4, line 9, "said code linking said Internet site and said order form" lacks antecedent basis. In claim 4, line 9, "said order form" lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkowski '378.

Perkowski discloses or inherently teaches a product ordering system/process including: a coding system identifying product, inventory holder, retailer and promoter (See for example paragraphs 0023-0024); a purchasing means (see for example paragraphs 0043-0051, 0173) and ordering criteria (See for example 0153) at the retail establishment giving consumers an immediate buying opportunity; HTML documents including "forms" (see for example 0107); an Internet site designed to accept and process a product code on a label in order ensure profit sharing and goods delivery (see for example 0040, 0043-0051, 0071); and a mobile device for ordering the product using the code and the Internet site (see paragraphs 0100-0105).

Perkowski lacks the specific teaching of the retail establishment making an order form available to be mailed/faxed to a clearing website (i.e., manufacturer); and further lacks processing information on the Internet in order to ensure delivery of goods.

The Examiner takes Official Notice that it was well known at the time of the invention for retailers to have order forms to be mailed or faxed for ordering goods that

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may not be available in the store (i.e., a small auto parts retailer may fax an order to a manufacturer for a specific part that a customer needs).

Further, the Examiner takes Official Notice that it was well known at the time of the invention for information to be processed on the Internet to ensure delivery of goods (i.e., type and quantity of product to be delivered by a manufacturer).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Perkowski to have the retail establishment make an order form available to be mailed/faxed to a clearing website (manufacturer), in view of Official Notice, in order to satisfy the needs of all customers.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to modify Perkowski to process information on the Internet to ensure delivery of goods, in view of Official Notice, in order to satisfy the needs of the customer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351 until April 13, 2005 and (571) 272-6790 thereafter. The examiner can normally be reached on Monday-Friday, 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

F. Zeender
Primary Examiner, A.U. 3627
March 21, 2005

 3/21/05
F. RYAN ZEENDER
PRIMARY EXAMINER